

MINUTES
YORK COUNTY PLANNING COMMISSION

Regular Meeting
York Hall, 301 Main Street
September 8, 2004

MEMBERS

Nicholas F. Barba
John R. Davis
Frederick W. Harvell
Alexander T. Hamilton
John W. Staton
Alfred E. Ptaszniak, Jr.
Andrew A. Simasek

CALL TO ORDER

Chair Andrew Simasek called the regular meeting to order at 7:00 p.m.

REMARKS

Chair Simasek remarked that the Code of Virginia requires local governments to have a Planning Commission, the purpose of which is to advise the Board of Supervisors on land use and planning issues affecting the County. The responsibility is exercised through recommendations conveyed by resolutions or other official means and all are matters of public record. He indicated that the Commission is comprised of citizen volunteers, appointed by the Board, representing each voting district and two at-large members.

ROLL CALL

The roll was called and all members were present except Mr. Harvell. Staff members present were J. Mark Carter, James E. Barnett, Jr., Timothy C. Cross, Amy Parker, and Earl Anderson.

APPROVAL OF MINUTES

Mr. Hamilton moved adoption of the minutes of the regular meeting August 11, 2004. By roll call vote, they were adopted 6:0 (Mr. Harvell absent).

CITIZEN COMMENTS

Ms. Tammy Hicks stated that she had intended to speak relative to Application Nos. ZM-88-04 and UP-646-04 but was advised the applicant is requesting continuation of the application. She indicated she would withhold her comments until the public hearing.

PUBLIC HEARINGS

Mr. Timothy Cross, Principal Planner, briefly summarized applications ZM-88-04 and UP-646-04 and acknowledged the applicant's request to defer the public hearing to the October Planning Commission meeting. He stated that he would give the detailed staff presentation at that time.

Chair Simasek opened a joint public hearing for Application Nos. ZM-88-04 and UP-646-04.

Application No. ZM-88-04, King's Creek Developers, LLC: Request to amend the York County Zoning Map by reclassifying portions of two parcels located at 1681 Penniman Road (Route 641) and 112 Jones Drive (private road) from RR (Rural Residential) to EO (Economic Opportunity) subject to voluntarily proffered conditions. The combined acreage of the two parcels is 28.3 acres, approximately 25.1 acres of which is proposed to be rezoned. The applicant has proffered that the property will be used exclusively for timeshare development. The property is further identified as portions of Assessor's Parcel Nos. 11-3-E and 11-3-F and is designated for Economic Opportunity and Low Density Residential development in the Comprehensive Plan; and

Application No. UP-646-04, King's Creek Developers, LLC: Request, contingent on the approval of Application No. ZM-88-04 above, for a Special Use Permit to authorize the construction of up to 400 timeshare units on approximately 25.1 acres located at 1681 Penniman Road (Route 641) and 112 Jones Drive (private road). The applicant plans to incorporate this property into the King's Creek Plantation timeshare resort currently under construction on approximately 157 acres adjacent thereto. The property, further identified as portions of Assessor's Parcel Nos. 11-3-E and 11-3-F, is zoned RR (Rural Residential) and is designated for Economic Opportunity and Low Density Residential development in the Comprehensive Plan.

Mr. Ricky Coleman, 1685 Penniman Road, expressed his opposition to the rezoning. Mr. Coleman said he did not understand the application and would like for the applicant or its agent to explain to him what they propose to do. Mr. Coleman said he is apprehensive whether his property would retain its value [if the applications are approved] but he wants to be optimistic.

Billie Millner, Esq., Jones Blechman Woltz & Kelly, P.C., joined with the applicant in requesting deferral so they can meet with the neighbors, to include Mr. and Mrs. Coleman, and try to resolve their concerns.

Mr. Ptasznik moved to continue the public hearing for Application Nos. ZM-88-04 and UP-646-04 until October 13, 2004. On roll call the motion to continue was passed unanimously, 6:0 (Mr. Harvell absent).

Application No. ZM-89-04, Williamsburg Furniture: Request to amend the York County Zoning Map by reclassifying from R13 (High-Density Single Family Residential) to GB (General Business) an approximately 10,149 square foot land-locked parcel of land located off the south side of Second Street (Route 162) at the southwest quadrant of the intersection of Second Street and Merrimac Trail (Route 143). The property is identified as Assessor's Parcel No. 10-16 and contains the rear portion of the Williamsburg Furniture building. The Comprehensive Plan designates this area for General Business development; and

Application No. UP-647-04, Holiday Chevrolet-Cadillac, Inc.: Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 12, No. 5b) of the York County Zoning Ordinance, to authorize the expansion of an existing motor vehicle sales and service facility located at 539 and 543 Second Street (Route 162). The properties are located at the southwest quadrant of the intersection of Second Street (Route 162) and Merrimac Trail (Route 143) and are identified as Assessor's Parcel Nos. 10-18 and 10-19. The parcels are zoned GB (General Business) and are designated for General Business development in the Comprehensive Plan.

Ms. Amy Parker, Senior Planner, summarized the staff memorandum to the Commission dated August 31, 2004, in which the staff made a recommendation of approval. She said no proffers were proposed and the business, if approved, would be subject to the terms of the Tourist Corridor Management overlay district.

Ms. Parker read aloud a letter received September 6, 2004, from a neighbor who was unable to be present.

Dear Ms. Parker,

Please read the following anonymously and place this document in the public record.

This email is regarding applications numbers ZM-89-04 and UP-647-04 concerning the expansion of Holiday Chevrolet-Cadillac, Inc.

I have reviewed the plans for the site and I would like to ask that the wording of the application be amended to include language specific to certain zoning requirements to protect the residential environment of my neighborhood, Middletowne Farms. Specifically, I would like to be assured that the following requirements be addressed: 1) lighting should be directed away from the neighborhood 2) a buffer of 35 feet, preferably including a fence and shrubbery, should be maintained on the dealership's lots 3) that the use of loudspeakers be specifically banned 4) technology used be utilized to minimize paint fumes from drifting into nearby residential properties 5) that no vehicular access to the lots be allowed through the neighborhood.

The neighborhood of Middletowne Farms dates back to the early 1950's. We truly represent a cross-section of the population of Williamsburg: young families, retirees, single professionals, and college students. The commercial development has continued to encroach our quiet enclave. We have been fortunate for many years to be bordered by a landscape company which by the nature of the business created a peaceful buffer. As Williamsburg transitions into a higher density community, I expect to find higher impact neighbors such as a car dealership. (We have a veterinarian clinic and a WaWa convenience store being constructed on the other end of the neighborhood.) All I ask is that the safeguards that are provided in the zoning regulations are enforced for the benefit of our neighborhood and ultimately for the county as well.

Thank you.

A neighbor.

Ms. Parker pointed out the applicants propose to screen the adjacent residential area with evergreen trees and fencing. She said any hazardous materials used would be subject to Virginia Department of Environmental Quality regulations. No vehicular access to the residential area was proposed nor would it be allowed under the Zoning Ordinance standards, she added.

Mr. Simasek inquired if loudspeakers or fumes have been a problem. **Ms. Parker** stated there have been complaints to Zoning and Code Enforcement in the past.

Ms. Parker verified that lighting intensity measurements were determined at higher than ground levels.

Mr. Barba asked if more impervious surface would be added. **Ms. Parker** noted the impervious areas on the site of the existing building would remain about the same, and there would be an increase on the adjacent parcel to the west, formerly occupied by a plant nursery (The Greener Side) on which the applicant proposes to expand the auto dealership. The gravel areas are considered partially impervious for storm water runoff calculations.

Mr. Ptasznik inquired about the purpose of the rezoning. **Ms. Parker** explained that the zone change would enable the applicant to develop the former Greener Side parcel without the transitional buffer restriction for the side yard.

Mr. Simasek asked if there are nonconforming issues other than the existing freestanding signs. **Ms. Parker** said, with the exception of the front yard, the landscaping for required parking does not meet current standards but the proposed conditions, if met, would bring it into compliance. She added that existing landscaping in front of a portion of the building is insufficient to meet current standards and the applicant does not propose additional landscaping to meet minimum standards. **Mr. Simasek** asked why not, and **Ms. Parker** explained that in the view of the Zoning Administrator some leniency would be appropriate because the 1988 site plan preceded front yard landscaping zoning regulations and required less landscaping than is required today.

Mr. Mark Carter noted that the applicant has for some time been allowed by the Virginia Department of Transportation (VDOT) to park vehicles in VDOT's right-of-way. The County has encouraged the applicant to approach VDOT about acquiring part of the right-of-way in front of its building to afford an expanded parking and landscaped area.

The Chair opened the public hearing.

Mr. Mike Baust, Rickmond Engineering, Inc., 1643 Merrimac Trail, represented the applicants. He noted that Mr. Hudgins, the applicant for Application No. UP-646-04, had received a complaint concerning the loudspeakers and subsequently reduced their volume and no complaints have been made since.

Mr. Baust reviewed the history of the automobile dealership since it was established in 1982 as a GMC dealer and its relationship with Chevrolet dating from 1996. Mr. Baust said the demand for automobiles and wider model selections have increased the need for inventory and service space. He explained the applicant has been allowed to store automobiles at an old bank lot on Merrimac Trail and has been advised that it is acceptable to the County to move the storage lot to the former Greener Side lot during the application process. He said the business has generated \$280,000 in local tax revenues.

Mr. Baust requested the following exceptions to proposal Resolution PC04-22:

- Delete condition 3 - allow existing signage.
- Delete condition 4 - allow existing display area to remain unchanged because compliance would cause the elimination of prime display area.
- Revise condition 6 - eliminate reference to Condition No. 4.
- Revise condition 10 - allow up to six vehicles to park in the public right-of-way.

Chair Simasek, seeing no others who wished to speak, closed the public hearing.

Mr. Ptasznik inquired about the sign violation. **Ms. Parker** explained that the pole sign has always been in the public right-of-way although it appears no permits for it were issued. The Zoning Ordinance has never allowed offsite signage, thus making the sign illegal.

Mr. Carter said the sign placement is illegal, as opposed to nonconforming. The County could issue a citation to the applicant that could be appealed to the Board of Zoning Appeals, **Mr. Carter** explained, but the sign cannot be approved administratively. Otherwise, he said, the applicant would be required to replace it with an on-site monument-type sign.

Mr. Ptasznik believed that, if approval is recommended, it should require conformity with current landscaping and sign ordinances.

Mr. Davis agreed, noting that to do otherwise is counter to efforts being made on Route 17 and the upper county to create attractive tourist entries.

Mr. Barba agreed with Mr. Davis, noting the Tourist Corridor Management district should be respected and he agreed with staff's recommendation to require conformity with the Zoning Ordinance in signage, landscaping, and moving cars out of the VDOT right-of-way. He was glad the applicant's business operation is successful enough to need more space and additional service technicians.

Mr. Staton asked what the effects would be to install the three landscape islands in the parking area, as staff proposed. **Mr. Baust** explained the islands would eliminate some prime display area. He added that a monument-type sign would also block the view of automobiles on display in the front lot.

Ms. Parker noted the TCM district requires a 20-foot landscaped area but the staff proposed three landscape islands as a reasonable compromise. Responding to **Mr. Ptasznik's** questions as to the

type of landscaping, **Ms. Parker** said that would be the applicant's decision and that trees, shrubs or other landscaping elements are permitted.

Mr. Hamilton asked if the applicant was addressing the issue about paint fumes. **Mr. Baust** explained that current technology has practically eliminated the escape of fumes.

Mr. Ptasznik supported the conditions as proposed by staff.

Mr. Simasek noted the absence of landscaping detail but also that most of the landscaping will occur at the rear of the building. As to the landscape islands, he felt their value was more aesthetic than in total area. He was in favor of expanding the dealership, and would recommend that more landscaping be added in front of the building in the future.

Mr. Simasek believed the County should use this opportunity to "clean up" some nonconforming issues.

Mr. Barba moved the adoption of proposed Resolution PC04-26.

PC04- 26

On motion of Mr. Barba, which carried 6:0 (Mr. Harvell absent), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A REQUEST TO REZONE
APPROXIMATELY 10,149 SQUARE FEET OFF THE SOUTH SIDE OF SECOND
STREET FROM R13 – HIGH DENSITY SINGLE FAMILY RESIDENTIAL TO
GB – GENERAL BUSINESS

WHEREAS, Daniel S. Jones has submitted Application No. ZM-89-04, which requests to amend the York County Zoning Map by reclassifying from R13 (High Density Single Family Residential) to GB (General Business) approximately 10,149 square feet of land located off the south side of Second Street (Route 162) at the southwest quadrant of Second Street and Merrimac Trail (Route 143), and further identified as portions of Assessor's Parcel No. 10-16; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 8th day of September, 2004, that Application No. ZM-89-04 be, and it hereby is, transmitted to the

York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Map by reclassifying from R13 (High Density Single Family Residential) to GB (General Business) approximately 10,149 square feet of land south side of Second Street (Route 162) at the southwest quadrant of Second Street and Merrimac Trail (Route 143), and further identified as Assessor's Parcel No. 10-16 and more fully described in the York County Registry of Deeds Deed Book 220, Page 339 and as shown on a plat titled "Plat Showing the Proposed Rezoning of 537A Second Street, County of York, Virginia," prepared by Rickmond Engineering, Inc., and received by the Planning Division on August 2, 2004.

Mr. Barba moved adoption of proposed Resolution PC04-27.

PC04-27

On motion of Mr. Barba, which carried 6:0 (Mr. Harvell absent), the following resolution was adopted:

**A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT
TO AUTHORIZE EXPANSION OF AN EXISTING MOTOR VEHICLE SALES
AND SERVICE FACILITY AT 539 AND 543 SECOND STREET**

WHEREAS, Holiday Chevrolet-Cadillac, Inc. has submitted Application No. UP-647-04, which requests a Special Use Permit, pursuant to Section 24.1-306 (Category 12, No. 5(b)) of the York County Zoning Ordinance, to authorize expansion of an existing motor vehicle sales and service facility located at 543 and 539 Second Street (Route 162) and identified as Assessor's Map Nos. 10-19 and 10-18; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 8th day of September, 2004 the Application No. UP-647-04 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize the expansion of an existing motor vehicle sales and service facility located at 543 and 539 Second Street (Route 162) and identified as Assessor's Map Nos. 10-19 and 10-18; subject to the following conditions:

1. This use permit shall authorize the expansion of an existing motor vehicle sales and service facility located at 543 and 539 Second Street and identified as Assessor's Map Nos. 10-19 and 10-18.

2. A site plan, prepared in accordance with the provisions of Article V of the York County Zoning Ordinance, shall be submitted to and approved by the County for the proposed use. Said site plan shall be in substantial conformance with the sketch plan submitted by the applicant titled "Holiday Chevrolet-Cadillac, Inc., Proposed Site Conditions," dated August 31, 2004, prepared by Rickmond Engineering, Inc., and received by the Planning Division on August 31, 2004, except as modified herein or as may be necessary to comply with site plan review requirements.
3. All existing freestanding signage associated with the subject use shall be brought into compliance with current Zoning Ordinance Sign regulations applicable to the Tourist Corridor Management overlay district. The existing pole identification sign shall be removed and replaced with a monument style sign constructed of materials that coordinate with the proposed building addition facade materials.
4. There shall be three additional landscape islands installed along the front of Parcel 10-18 within the row of existing vehicle display parking spaces abutting the front right-of-way line. Said islands shall be equivalent in size to a standard parking space as set forth in the Zoning Ordinance, and shall be located one at either end of the row of parking, and one centrally located in the row of spaces.
5. A 35-foot landscape yard shall be established as shown on the above-referenced site plan bordering the southern property boundary of the entire subject site. Existing trees and shrubs shall be preserved where possible, and shall be supplemented with a mix of evergreen trees and shrubs for screening the vehicle sales facility from adjacent residential properties equivalent to a Type 35 transitional buffer. Screening shall be supplemented with opaque fencing no less than six feet in height of a type meeting the approval of the Zoning Administrator and located along the northern boundary of the landscape yard.
6. Except as specified in Condition Nos. 4 and 5 above, the site shall conform to landscaping standards as set forth in Section 24.1-240 et. Seq. of the Zoning Ordinance.
7. The proposed building additions shall be substantially in conformance with architectural elevations submitted by the applicant titled "Holiday Chevrolet-Cadillac, Inc.," dated August 2, 2004, prepared by Infrastructure, Inc., and received by the Planning Division on August 27, 2004.
8. All site lighting shall be designed with full cutoff fixtures and directed downward to prevent off-site glare on to abutting properties and the road right-of-way. Illumination levels shall not exceed 0.1 foot-candle at any residential property line. All lighting fixtures shall be consistent with the lighting recommended by the Illumination Engineering Society of North America (IESNA). A photometric plan detailing all proposed fixtures and ground illumination levels shall be submitted for approval at the time of application for site plan approval.
9. In accordance with Section 24.1- 256(d) of the Zoning Ordinance, a shoulder bikeway shall be constructed across that portion of the subject site abutting the Merrimac Trail right-of-way prior to occupancy of the proposed building addition.
10. In accordance with Section 24.1-475(h) of the Zoning Ordinance, there shall be no parking, storing or display of motor vehicles within the public road right-of-way fronting the subject parcels.
11. In accordance with Section 24.1-115(b)(6) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the

applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

Application No. UP-643-04, Thomas C. and Rebecca J. Waters: Request for a Special Use Permit, pursuant to Section 24.1-407 of the York County Zoning Ordinance, to authorize a 648 square foot accessory apartment on the second floor of a existing detached garage in the RR, Rural Residential District. The garage is located at 300 Railway Road (Route 620), on a 2.01-acre lot. The subject properties are further identified as Assessor's Parcel Nos. 25-35-G-001. The property is designated for Low Density Residential development in the Comprehensive Plan.

Mr. Earl Anderson, Planner, gave a summary of the staff report dated August 26, 2004, in which the staff recommended approval.

Mr. Barba asked if any complaints had been received, to which **Mr. Anderson** replied that no communication had been received from citizens about this application.

Mr. Davis expressed concern about the implications of the term "guests." **Mr. Anderson** said it referred only to short-term guests of the applicants' family and did not confer permission for renting or leasing the accessory apartment.

Chair Simasek opened the public hearing. Hearing no one, he closed the hearing.

Mr. Barba commented that the property was attractive and well maintained.

Mr. Hamilton moved adoption of proposed Resolution PC04-21.

PC04-21

On motion of Mr. Hamilton, which carried 6:0 (Mr. Harvell absent), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT
TO AUTHORIZE A DETACHED ACCESSORY APARTMENT AT 300
RAILWAY ROAD

WHEREAS, Thomas C. and Rebecca J. Waters have submitted Application No. UP-643-04 to request a Special Use Permit, pursuant to Section 24.1-407(b) of the York County Zoning Ordinance, to authorize a detached accessory apartment in conjunction with a single-family detached dwelling to be constructed on property located at 300 Railway Road and further identified as Assessor's Parcel No. 25-35-00-000G1; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has given careful consideration to the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 8th day of September, 2004, that Application No. UP-643-04 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a Special Use Permit, pursuant to Section 24.1-407(b) of the York County Zoning Ordinance, to allow a detached accessory apartment in conjunction with a single-family detached dwelling to be contained within an existing two-story garage on property located at 300 Railway Road and identified as Assessor's Parcel No. 25-35-00-000G1, subject to the following conditions:

1. This use permit shall authorize a detached accessory apartment in conjunction with a single-family detached dwelling to be contained on the second floor of an existing two-story detached garage on property located at 300 Railway Road and further identified as Assessor's Parcel No. 25-35-00-000G1.
2. The apartment shall be contained within the existing structure located at the southwest corner of the subject property as indicated on the plat submitted by the applicant titled "Plat of the Property of Thomas C & Rebecca J. Waters, Parcel G-1 of resubdivision of parcel G of parcel G 8, parcel H, R.F. Presson, estate and W.M. Presson Estate," dated March 6, 1987, prepared by Becouvarakis and Associates, Land Surveying and received by the Planning Division on July 28, 2004. Building plans in substantial conformance with the floor plans submitted by the applicant and received by the Planning Division on July 28, 2004 shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Building Regulation, prior to the issuance of a building permit for the accessory apartment.
3. Not more than one (1) accessory apartment shall be permitted in conjunction with the principal dwelling unit.
4. Habitable floor area of the accessory apartment unit shall not contain in excess of 648 square feet.
5. The accessory apartment unit shall contain no more than one (1) bedroom.
6. Adequate provisions shall be made for off-street parking of motor vehicles in such a fashion as to be compatible with the character of the single-family residence and adjacent properties.
7. The accessory apartment shall not be rented separate from the principal dwelling and shall be occupied only by family members or guests of the occupant of the single-family dwelling.
8. Any new impervious cover shall be in compliance with Section 24.1-372 of the County Zoning Ordinance.

9. In accordance with Section 24.1-407(k) of the County Zoning Ordinance, prior to issuance of a building permit for the accessory apartment, the applicant shall be responsible for recording a deed restriction document with the Clerk of the Circuit Court stipulating that the subject accessory apartment will be used, occupied and maintained in accordance with standards and restrictions set forth in Section 24.1-407 of said Ordinance. A Court-certified copy of the document shall be submitted to the County at the time of building permit application.
10. Issuance of this Special Use Permit does not supersede any legally recorded restrictive covenants that may apply to the subject property, nor does it relieve the applicant and/or property owner of any obligation to secure approvals that may be required by a homeowners' association in accordance with said covenants.
11. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

Application No. UP-644-04, Kenneth M. and Linda J. McIntyre: Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 15, No. 4b) of the York County Zoning Ordinance, to authorize a contractor's shop with outdoor storage. The property is located at 7815 George Washington Memorial Highway (Route 17) and is further identified as Assessor's Parcel No. 24-89. The property is located on the west side of Route 17 approximately 1,300 feet south of its intersection with Fort Eustis Boulevard (Route 105). The property is zoned GB (General Business) and is designated for General Business development in the Comprehensive Plan.

Ms. Amy Parker, Senior Planner, presented a summary of the staff report dated August 24, 2004 in which the staff recommended approval. She noted the applicant has proposed additional landscaping at the site.

Hearing no questions from the Commission, **Chair Simasek** opened the public hearing.

Mr. Kenneth M. McIntyre, 316 Darby Road, offered to answer questions relative to his application.

Mr. Davis inquired what type of items Mr. McIntyre wanted to store at the site.

Mr. McIntyre said storage items would consist of old condensing units and air handlers before they are recycled. They would be stored out of public view behind a chain link fence with vinyl weaving and a gate that could be opened and closed. He estimated the fence would be six feet high.

Mr. Barba wanted to know how long Mr. McIntyre had been in business, and **Mr. McIntyre** said he and Mrs. McIntyre have operated their business for 15 years out of a home office. They are now in a financial position to move the business out of the house and hope to keep it in the County.

Mr. Barba commended them for their success and wished them well.

Mr. Ptasznik moved to adopt proposed Resolution PC04-22.

PC04-22

On motion of Mr. Ptasznik, which carried 6:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT
TO AUTHORIZE AN OUTDOOR STORAGE YARD ASSOCIATED WITH A
CONTRACTOR'S SHOP/OFFICE AT 7815 GEORGE WASHINGTON MEMORIAL
HIGHWAY

WHEREAS, Kenneth M. and Linda J. McIntyre have submitted Application No. UP-644-04, which requests a Special Use Permit, pursuant to Section 24.1-306 (Category 15, No. 4b) of the York County Zoning Ordinance to authorize an outdoor storage yard associated with a contractor's shop/office on a 1.15-acre parcel of land located at 7815 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel No. 24-89; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 8th day of September, 2004 the Application No. UP-644-04 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a 5,000-square foot outdoor storage yard associated with a contractor's shop/office on a 1.15-acre parcel of land located at 7815 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel No. 24-89; subject to the following conditions:

1. This use permit shall authorize a 5,000-square foot outdoor storage yard associated with a contractor's shop/office on a 1.15-acre parcel of land located at 7815 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel No. 24-89.
2. A site plan, prepared in accordance with the provisions of Article V of the York County Zoning Ordinance, shall be submitted to and approved by the County prior to the establishment of the proposed contractor's outdoor storage yard. Said site plan shall be in substantial conformance with the sketch plan submitted by the applicant titled "J&K Heating & Cooling," dated June 20, 2004, prepared by Davis & Associates, PC and received by the Planning Division on July 29, 2004, except as modified herein or as may be necessary to comply with site plan review requirements.
3. The outside storage area shall be located within the rear yard of the parcel, and shall be screened with six to eight-foot high opaque fencing constructed of materials as approved by the Zoning Administrator. Pursuant to Section 24.1-486, evergreen trees shall be installed for

screening to augment the proposed fencing and shall be installed with a planting spacing of no more than 10 (ten) feet on center. Plantings within the northern landscape yard in the area abutting the existing hotel building shall be evergreen species and shall be installed with a planting spacing of no more than 10 (ten) feet on center.

4. Contractor's equipment and materials (excluding vehicles) kept within the storage area shall not exceed the height of the surrounding fencing.
5. In accordance with the Building Officials Code of America; National Fire Prevention Code, contractor's materials stored outside shall not be stored closer than 15 feet from any lot line or building on the property.
6. Materials stored outside on the property shall be limited to those associated with a heating and cooling contractor's business, and shall not include junk, solid waste, construction debris or hazardous waste as defined in Chapter 19, Section 19.1 and/or Chapter 24, Section 24.1-104 of the County Code.
7. Vehicles stored on the property shall be limited to light-duty cars, trucks and vans associated with the proposed heating and cooling contractor's business, and shall not include heavy construction equipment or vehicles.
8. The front façade of the building shall be constructed utilizing brick, split-faced block, dryvit or other simulated stucco (EIFS), preformed simulated brick or architectural block panels and wood or synthetic clapboard siding.
9. Freestanding signage shall be monument style and shall be constructed of materials that coordinate with the front façade of the proposed building.
10. Existing trees and shrubs on the property shall be maintained to the maximum extent possible. Proposed clearing limits shall be delineated for preservation on the site plan required pursuant to Condition #2 above.
11. All site lighting shall be designed with full cutoff fixtures and directed downward to prevent off-site glare on to abutting properties and the road right-of-way. Illumination levels shall not exceed 0.5 foot-candle at any property line. All lighting fixtures shall be consistent with the lighting recommended by the Illumination Engineering Society of North America (IESNA). Freestanding lighting fixtures shall be fitted with high-pressure sodium lamps. A photometric plan detailing all proposed fixtures and ground illumination levels shall be submitted for approval at time of application for site plan approval.
12. In accordance with Section 24.1-115(b)(6) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

Application No. UP-645-04, Rodney and Crystal Boyd: Request for a Special Use Permit, pursuant to Section 24.1-283(b) of the York County Zoning Ordinance, to authorize a beauty shop as a home occupation within a single-family detached dwelling on a 0.47-acre parcel of land located at 406 Grafton District Road (Route 1209) and further identified as Assessor's Parcel No. 24J-08-F-38. The property is zoned R20 (Medium density single-family residential) and the Comprehensive Plan designates this area for Medium-Density Residential development.

Mr. Earl Anderson, Planner, presented the summary of his memorandum to the Commission dated August 26, 2004. Mr. Anderson projected some photographs of the site and noted that the site has since been cleaned up and the applicants have stated they will install landscaping in front of their residence.

Mr. Anderson referred to a letter from **John W. Moore and Joan S. Moore**, 206 York Lane, dated August 24, 2004 and previously forwarded to the members. In the letter, Mr. and Mrs. Moore stated that some of their concerns were based on two businesses the Boyds were operating from their residence. They had no objection to the Special Use Permit provided their concerns are addressed and the Boyds operate their businesses in compliance with County ordinances. [Letter attached to minutes of record.]

Mr. Davis inquired about the business licenses the applicants currently hold for their home address. **Mr. Anderson** stated they have licenses for a mobile automobile repair business and a home office for a landscape business, but no right to store equipment or perform work on the residence property.

Mr. Davis found it problematical that the applicants already have two home-operated businesses with previous violations and neighbors' objection. He expressed concerns that the residence is on the verge of becoming a commercial operation. **Mr. Davis** acknowledged the applicants appear to be hardworking people, but he did not favor a third business operating from the residence.

Mr. Barba noted the property has been cleaned up and they are hardworking people, and he had no objection to granting the use permit with the conditions proposed by staff.

Chair Simasek opened the public hearing.

Mr. Hamilton asked about the vehicles depicted in the staff photographs.

Mr. Rodney Boyd, 406 Grafton District Road, stated the pictures were taken while his driveway was under construction and landscaping was being installed using some of his own landscaping equipment that normally is kept off site. Two classic cars shown in the pictures are usually garaged but were outside when the photographs were taken because the garage was needed during the construction and yard work. He said his work equipment normally is stored at locations off site and he tries to comply with all County codes. **Mr. Boyd** added that he has spent thousands of dollars improving his property.

Mr. Boyd said approval of the use permit would enable his wife to stay at home with their two children while continuing to work.

Mr. Simasek noted the concern expressed by Mr. Davis about a residentially-zoned property becoming a commercial operation. He asked Mr. Boyd how much traffic his current businesses generate.

Mr. Boyd said they do not generate any traffic because he meets his workers at the work site or some other location each morning.

Mr. Staton wanted to know how many vehicles are stored on the residence property. **Mr. Boyd** stated his personal truck, an SUV, and two classic cars that are garaged, are kept at the residence.

Mr. Barba moved adoption of proposed Resolution PC04-23.

PC04-23

On motion of Mr. Barba, which carried 5:1 (Mr. Davis dissenting, Mr. Harvell absent), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT
TO AUTHORIZE A BEAUTY SHOP AS A HOME OCCUPATION AT 406
GRAFTON DISTRICT ROAD.

WHEREAS, Rodney and Crystal Boyd have submitted Application No. UP-645-04 requesting a Special Use Permit, pursuant to Section 24.1-283(b) of the York County Zoning Ordinance, to authorize a beauty shop as a home occupation within a single-family detached dwelling on a 0.47-acre parcel of land located at 406 Grafton District Road (Route 1209) and further identified as Assessor's Parcel No. 24J-08-F-38; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has given careful consideration to the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 8th day of September, 2004, that it does hereby transmit Application No. UP-645-04 to the York County Board of Supervisors with a recommendation of approval, subject to the following conditions:

1. This use permit shall authorize the establishment of a one (1)-chair beauty shop as a home occupation within a single-family detached dwelling on a 0.47-acre parcel of land located at 406 Grafton District Road and further identified as Assessor's Parcel No. 24J-08-F-38.
2. The conduct of such home occupation shall be limited to approximately 215 square feet, which is shown on the house survey sketch plan filed with the application.

3. The home occupation shall be conducted in accordance with the provisions of Sections 24.1-281 and 24.1-283(b) of the York County Zoning Ordinance, except as modified herein.
4. No person other than individuals residing on the premises shall be engaged on the premises in the home occupation.
5. The days and hours of operation shall be limited to no more than three days per week from 9:00 AM to 8:00 PM by appointment only.
6. No more than one (1) customer at any one time shall be served within the applicant's home.
7. Retail sales on the premises shall be limited to incidental sales of shampoo and other hair care products.
8. No signs or other forms of on-premises advertisement or business identification visible from outside the home shall be permitted.
9. In accordance with the terms of the Zoning Ordinance, a minimum of two (2) off-street parking spaces shall be provided on the premises to accommodate customers. These spaces shall be in addition to the two (2) spaces that are otherwise required for the single-family residence.
10. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

OLD BUSINESS

There was no old business.

NEW BUSINESS

There was no new business.

STAFF REPORTS

Mr. Carter reported on recent actions by the Board of Supervisors.

Mr. Carter reminded the members of the dinner with the Board of Supervisors at 5:30 PM in York Hall Gallery before the next regular meeting October 13.

COMMITTEE REPORTS

Mr. Barba gave an update of the neighborhood meeting schedule for the Comprehensive Plan 2025 project, the first of which is tomorrow night at Magruder Elementary School and he invited all who wanted to attend.

COMMISSION REPORTS AND REQUESTS

There were no other reports.

ADJOURN

Adjournment was called at 8:30 p.m.

SUBMITTED:

Phyllis P. Liscum, Secretary

APPROVED:

Andrew A. Simasek, Chair

DATE: _____